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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1951

No. 555

MORTGAGE FINANCE CORPORATION AND MAY C. STOCK,

Appellants,

vs.

D. D. WATSON, REAL ESTATE COMMISSIONER OF THE STATE OF CALIFORNIA

APPEAL FROM THE DISTRICT COURT OF APPEAL OF THE STATE OF CALIFORNIA, FIRST APPELLATE DISTRICT

STATEMENT AS TO JURISDICTION

ARTHUR L. JOHNSON,
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JOHNSON, MORGAN, THORNE & SPEED,
Of Counsel.

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IN THE DISTRICT COURT OF APPEAL OF THE STATE OF CALIFORNIA IN AND FOR THE FIRST APPELLATE DISTRICT, DIVISION ONE

No. 15011

MORTGAGE FINANCE CORPORATION AND MAY C. STOCK,

Appellants,

vs.

D. D. WATSON, REAL ESTATE COMMISSIONER OF THE STATE OF CALIFORNIA,

Respondent

JURISDICTIONAL STATEMENT

I

Summary of Proceedings in the State Courts

Appellants on June 8, 1951, filed a "Complaint in Equity for Injunction" praying for both a temporary restraining order and a permanent injunction against respondent, seeking to enjoin him from attempting to regulate and control appellants' mortgage loan business under color of the purported authority of a State statute, California Business and Professions Code Section 10131 (Stats. 1943, ch. 127, Sec. 1, page 835), which statute appellants' complaint in equity declared to be in violation of both State and Federal Constitutions. The said statute is fully set forth in appel-

lants' Opening Brief on Appeal, page 11; and it is only necessary here to note that it seeks to define a real estate broker, *inter alia*, as "a person . . . who for compensation negotiates loans on real estate." It is solely from these five random words, buried in the midst of the State Real Estate Law, that respondent claims his authority to regulate and control appellants' mortgage business.

Appellants' said complaint in equity, after complaining of respondent's proceeding by a public hearing to revoke his license to do business "all in denial of due process of law" and "in flagrant derogation of plaintiff's constitutional and statutory rights, as set forth below", set forth squarely the constitutional basis of this action in Paragraph V of the said complaint, as follows:

> "That in addition to the foregoing, and as further specific grounds for the issuance of a temporary and permanent injunction against this defendant, plaintiffs specifically charge that defendant's sole purported statutory authority for the regulation and control of plaintiffs' mortgage business is contained in Business and Professions Code, Section 10131; that said pretended authority and the said Section which attempts to confer it are null and void and unconstitutional in that it violates Article I, Sections 11 and 21, and Article IV, Section 24 of the Constitution of California and the Fourteenth Amendment of the Constitution of the United States; that further, the aforesaid accusation filed by defendant is based either on allegations proved false by public records, or not within the scope of the Real Estate Act and therefore beyond defendant's lawful jurisdiction, or are so indefinite and uncertain as to violate the requirements of the law and the constitutional guarantees of due process of law."

The Complaint in Equity for Injunction was filed by appellants early on Friday, June 8, 1951, and that same afternoon, after a hearing attended by respondent's

deputies and counsel, Judge Theresa Meikel denied the relief sought, relying upon the authority of the sole case cited by respondent's counsel, *United States* v. *Supreme Court*, 19 Cal. 2d. 189, the first headnote only of which he read to the Court as the law of the case, though the fifth headnote, which was not read, supported plaintiffs' contention. The order of said Judge specifically denied relief either by restraining order or by injunction, and was duly entered as follows:

> "The application for a restraining order in the above-entitled case having come on to be heard on the complaint and affidavit, and the defendant, by his deputy, having appeared to answer, and the attorneys of the respective parties having been heard in argument, and the pleadings having been duly considered,
>
> "It Is Hereby Ordered that the application in this case for a restraining order or injunction be, and the same is hereby denied.
>
> "Dated the 8th day of June, 1951.
>
> (Signed) "THERESA MEIKLE,
> "*Judge of the Superior Court.*"

Had there not been a complete denial of relief, the Court would have issued a show-cause order for a hearing on a permanent injunction, as sought by the prayer of the complaint; but the final nature of the Court's order precluded such a hearing. This is the only order, judgment or decree of any State court in this whole action touching in any way on the merits of appellants' petition for permanent injunctive relief.

From that order on the next Court day, Monday, June 11, 1951, appellants diligently perfected their appeal and filed same directly with the Supreme Court of the State of California, as a matter of constitutional right (Constitution of California, Article VI, Section 4), which Court immediately assigned the cause for hearing to the District Court of

Appeal, First District, Division One, pursuant to the authority so to do vested in the State Supreme Court by that same Section of the State Constitution. A hearing was immediately had in chambers on the temporary restraining order sought by appellants, but the Court denied that relief on the ground that respondent's administrative hearing against appellants had already begun that very morning (June 11th); but the said Court passed no judgment whatever on the merits of appellants' case for permanent injunctive relief, as sought in both the complaint for injunction and in the appeal.

It should be noted that the instant appeal does not concern itself with the error of the Court in refusing to issue such temporary restraining order, as gravely as that has injured and continues to injure appellants' business (see Petition for Rehearing, Point 8); but to save the time of the Court and to simplify the record, the instant appeal is based upon the refusal of the Superior Court, the District Court of Appeal, and the Supreme Court of the State of California to grant the injunction sought against respondent in the original complaint and urged on appeal.

In order to obtain a speedy determination of the case and avert further loss and damage to their business, appellants by counsel stipulated with respondent's counsel to abridge the time allowed by the Rules of Court for the filing of briefs and to submit the appeal without oral argument, which stipulation was filed with the Clerk of the Court and acknowledged in open Court by respondent's counsel on June 26, 1951, on which date the case was by agreement placed on the Court's calendar. Appellants duly filed their Opening Brief on Appeal, which bases their claim for injunctive relief on the unconstitutionality of the aforesaid State statute and the violation of their constitutional rights guaranteed by the Fourteenth Amendment to the Federal Constitution. (Opening Brief, pp. 8, 12, 13, 15.) In fine,

the violation of appellants' Federal constitutional rights is not an issue raised *ad hoc* for this appeal, but it is of the very essence of the original complaint and of the appeal filed in the State Supreme Court and by it assigned for hearing to the District Court of Appeal.

Respondent failed and defaulted in the filing of his answering brief, and has never at any time in writing or orally made any attempt to meet the serious constitutional arguments thus raised by appellants. On the contrary, he admitted the truth of the averments in appellants' complaint by filing a demurrer against it, which has not been sustained. Instead of answering the constitutional issues raised in the 40-page brief on appeal filed by appellants, two weeks after his default on filing same he moved to dismiss the appeal on the sole ground that it was moot and frivolous! Appellants promptly filed a memorandum of law in opposition to said motion; but on August 27, 1951, the District Court of Appeal, acting for and under the said assignment of the case by the Supreme Court of the State of California, made and entered its order, without opinion, dismissing the appeal. On September 4, 1951, appellants duly filed a 19-page Petition for Rehearing with the said Court, which it retained until September 26, 1951, when it finally entered its order without opinion denying same. Due to the delay in the Court's decision and the absence of the President of the appellant Corporation on business in Washington, D. C., it was not possible for appellants to file a petition for a hearing in the Supreme Court of the State of California within 40 days from the date of the original order dismissing the appeal; but said petition was prepared and submitted to the Supreme Court on October 24, 1951, 28 days after the entry of the order of the Court of Appeal denying rehearing in that Court, and within the period of 60 days following said Court's order dismissing the appeal, so that the State Supreme Court could grant

the hearing on its own motion, as provided in the Court's Rule 28(a), as follows:

> "Within 30 days in criminal cases, and 60 days in other causes, after the filing of a decision of the District Court of Appeal, the Supreme Court, on its own motion, or on petition, may order the cause transferred to itself for hearing and decision."

A copy of said Petition for Hearing in the State Supreme Court is attached hereto. The Petition was refused by the said Court on October 25, 1951, thus completely exhausting appellants' remedies on this appeal in the Courts of California, and warranting the submission on November 23, 1951, of the accompanying petition for a hearing on appeal in the Supreme Court of the United States, since no further appeal or review herein is possible in any State tribunal.

Neither the Superior Court of first instance, the District Court of Appeal, nor the State Supreme Court has at any time met the Federal constitutional issues raised by the original Complaint for Injunction and by appellants' brief on appeal. On the contrary, the said Courts have avoided if not evaded the said issue of the violation of appellants' Federal constitutional rights, even though they are essential to any determination of the case; and by denying the relief requested without opinion they have sought to silence appellants' repeated efforts to obtain a determination of these fundamental constitutional issues.

II

Jurisdiction of the United States Supreme Court

Jurisdiction is conferred upon the Supreme Court of the United States in this appeal by the provisions of 28 U. S. C. A. Section 1257, inasmuch as the validity of a State statute is challenged on the ground of repugnance to the

Fourteenth Amendment to the Constitution of the United States, and the highest State courts have refused to hold it invalid.

III

Substantial Questions Involved

The issues raised by this appeal will not only determine the right of the appellant Corporation to exist and do business in the State of California, affecting thereby a mortgage business running into several millions of dollars and contractual relations with various life insurance companies, the funds of which it places in this State; but the questions involved also vitally concern every mortgage company in California, with an annual business running into hundreds of millions of dollars, and performing an essential public service in the financing of homes, industries and businesses in this state. It is the basic contention of appellants that the respondent has no constitutional or legal right to regulate and control the mortgage loan business in this State, and that his purported authority so to do is repugnant to both the State and the Federal Constitution.

Dated: November 21, 1951.

JOHNSON, MORGAN, THORNE AND SPEED,
By ARTHUR L. JOHNSON,
Attorneys for Appellants.

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OCTOBER TERM, 1951

No. 555

MORTGAGE FINANCE CORPORATION and MAY C. STOLZ,

Appellants,

vs.

D. D. WATSON, Real Estate Commissioner of the State of California,

Respondent.

APPEAL FROM THE SUPREME COURT OF THE STATE OF CALIFORNIA

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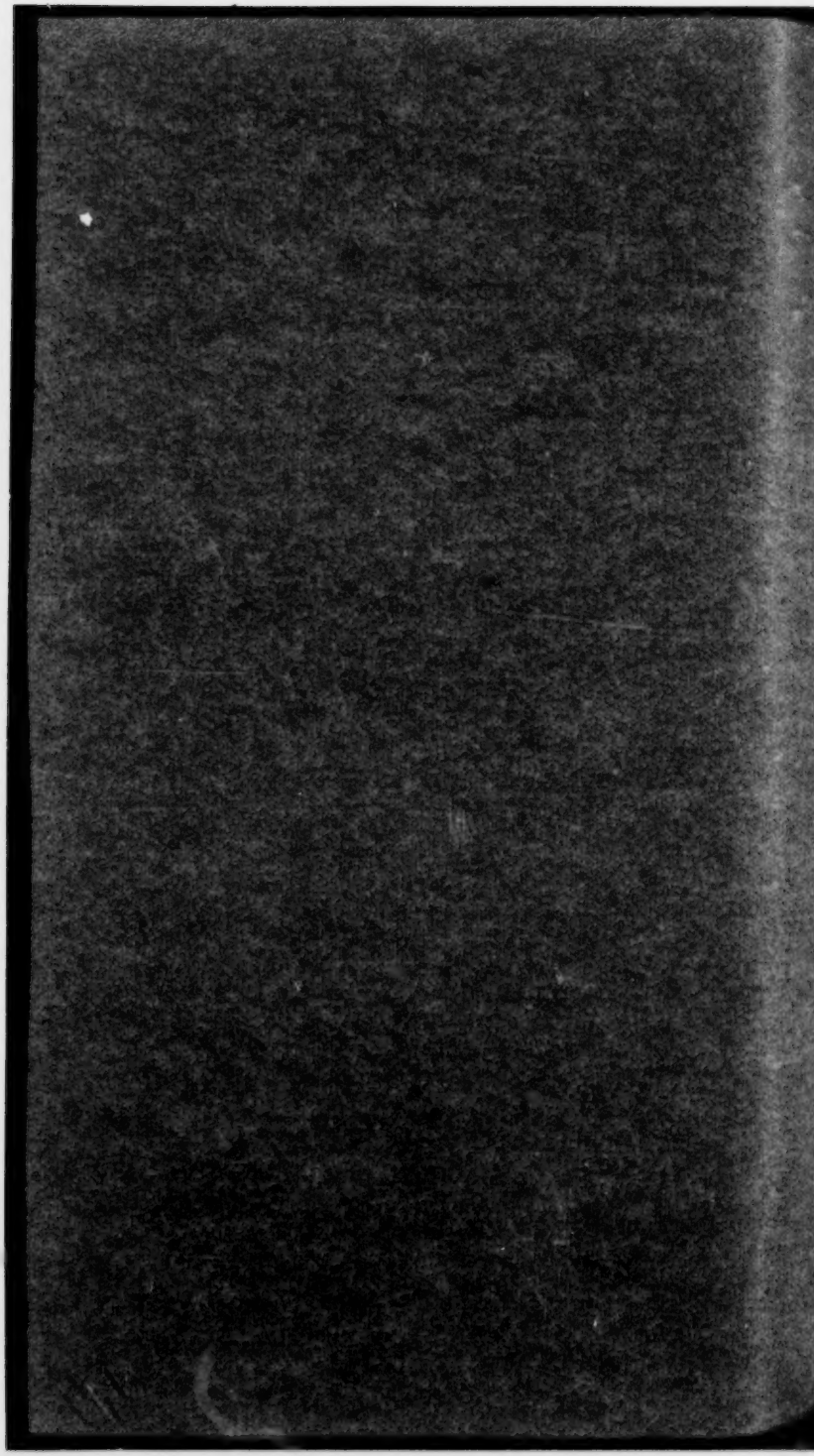

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SUPREME COURT OF THE UNITED STATES

October Term, 1951

No. 555

MORTGAGE FINANCE CORPORATION AND MAY C. STOCK,

Appellants,

vs.

D. D. WATSON, REAL ESTATE COMMISSIONER OF THE STATE OF CALIFORNIA

APPELLANTS' PETITION FOR REHEARING

TO THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Your petitioner respectfully requests a rehearing in the Supreme Court on the appeal herein and on the order of the Court, dated March 4, 1952, dismissing the appeal for lack of a Federal question. The grounds for this petition are as follows:

1. The Federal right claimed by your petitioners was specially set out in the original complaint in equity, in direct, clear, and unequivocal form (see Jurisdictional Statement, 2); duly presented to the Supreme Court of California on appeal (see Petition to Supreme Court for Injunction in record); and again asserted in Appellants' Brief on Appeal in the District

Court of Appeal to which the State Supreme Court assigned the cause for hearing (see Brief, pp. 8, 12, 13, 15 in record). There could scarcely be a clearer averment of appellants' reliance on and claim to a Federal right.

2. The facts proving the violation of appellants' Federal right under the 14th Amendment to due process of law and to equal protection of the laws set forth in the original complaint are admitted by the defendant-appellee's general demurrer, his failure to file an answer, and his refusal to file an answering brief on appeal after his stipulation so to do. (See Jurisdictional Statement, 5). From these facts this Court will note that the Federal right claimed is real and not fictitious; that appellee's unconstitutional acts thus admitted have destroyed and are continuing to destroy important and substantial property rights of appellants in patent violation of the guaranties of the 14th Amendment (see Petition for Rehearing in District Court of Appeal, 8, 12); and that the courts of the State of Califronia have refused to grant appellants injunctive relief, ignoring completely the state and Federal constitutional questions on which this action is founded; and that the said state courts have further refused to consider and decide the issue on its merits. This Supreme Court has consistently held that it will take jurisdiction to protect a Federal right, though the state courts ignore it; for the violation of the 14th Amendment by a state statute poses a Federal question.

3. The admitted facts showing appellee's violation of Articles I and IV of the Constitution of California and of Amendment 14 of the Federal Constitution are so interwoven and commingled that they cannot be separated in any intelligent consideration of the case. (See Appellants' Brief on Appeal below, pp. 8-20). Thus the discrimination practiced by appellee against appellants under color of the authority of a state statute which contravenes Sections 11 and 21 of Article I and Sections 24 and 25 of Article IV of the State Constitution likewise de-

prives appellants of equal protection of the laws and due process of law guaranteed to them by the 14th Amendment. The State right and the Federal right cannot be divided. Though necessary to a determination of the case, the state courts have avoided a decision on them. In such cases this Court has held that it will take jurisdiction to protect the Federal right.

4. This Court has repeatedly ruled that discriminations by a state statute far less onerous than those thus imposed on appellants violate the 14th Amendment. The Court will note that the statute in question (Section 10131, Business and Professions Code, set forth in appellants' Brief on Appeal, page 11) is contained in the State Real Estate Act; that the sole purpose of the statute is to regulate the real estate business; that the legislative title of the statute not even mentions the loan business or any other business than real estate; that nevertheless appellee interprets and enforces this statute to mean that only licensed real estate brokers may engage in the mortgage loan business, under threat of criminal penalties, thereby depriving appellants and others similarly situated from earning a livelihood in said loan business, which the Supreme Court of California has judicially deterimned to be a separate and distinct business (see appellants' Brief on Appeal in District Court of Appeal, 13, 16-17); that no other class of loan brokers is subjected to such disabilities, penalties, and discriminations by the statutes of California; that in fact not all mortgage lenders are so subjected, for by a further statutory discrimination mortgage lenders licensed under the California Insurance Code and those compensated by salary rather than by commission are favored, privileged, and given complete immunity from the operation of this discriminatory Real Estate Act. (See Appellants' Brief on Appeal, 17-18, 20-21, 23.)

5. The Supreme Court of California has already thrice construed the basic question at issue here against the position of the appellee, though the present Supreme Court now denies

equal protection to appellants. Thus on the very ground of discrimination the said Supreme Court unanimously held the California Real Estate Act unconstitutional (In re Raleigh, 177 Cal. 746; rehearing denied). Later the said Act was revamped and certain discriminations apparently removed, but not this one. (See Brief on Appeal, 11-13). And the State Supreme Court has twice decided the very question here at issue with respect to equal protection of the laws, namely, that a statute subjecting one class of loan brokers to a different and less favorable treatment than that prescribed for other classes is a violation of both the State Constitution (Article I, Secs. 11 and 21) and of the 14th Amendment to the Federal Constitution. (See Brief on Appeal, 12-14.) The issues here presented have thus been judically determined by the highest court of this State in favor of the contention of appellants. These decisions have never been overruled, and are the law of the land. For the courts of California to refuse to apply them in this case is to deny to appellants that equal protection of the laws and that due process of law to which they have laid specific claim in the state courts, and which they now appeal to this Supreme Court to protect under the mandate of the 14th Amendment.

6. Section 24 of Article IV of the Constitution of California lays down what is due process of law with respect to the title and scope of legislative enactments. This Court may note that the aforesaid statute under which appellee claims the authority to regulate and control appellants' business, and further to prohibit this business and destroy it under criminal penalties if appellants do not yield to his demands, stands clearly in violation of said Section of the State Constitution, and hence of the due process of law guaranteed by the 14th Amendment and invoked by appellants, since it embraces more than one subject, seeking to regulate both the real estate business and the loan business, yet fails to express the latter purpose in its title. (See Appellants' Brief on Appeal, 19-22.) This is no mere

technical defect, for the State Constitution further declares (Article I, Section 22): "The provisions of this Constitution are mandatory and prohibitive." This Supreme Court has repeatedly held that it will accept such a mandatory construction by state authority as binding upon it with respect to the violation of due process; and the Federal right claimed is to be protected though the statute also violates state constitution or law.

7. This Court will find from the record that the order of the trial court denying appellants both temporary and permanent injunctive relief had neither evidence, opinion, nor valid authority to support it. (See Jurisdictional Statement, 2-3, and Petition for Restraining Order to Supreme Court of California, 2-3). And similarly for the order of the District Court of Appeal dismissing the appeal, see Petition for Rehearing in the Court of Appeal, 1-8, 17-18. This Court may further note from the record that nowhere in these proceedings has the appellee challenged appellants' urgent contention in the trial court and on appeal to the State Supreme Court that his Federal rights to due process of law and to equal protection of the Law were being violated. In fact, at no stage of the proceedings have appellants' claims been met or answered, but rather they have been admitted as a matter of law, and are not disputed as a matter of record. Since this is an equity case in which matters of fact as well as of law are reviewable on appeal, this Court has held that the constitutional question raised in the equitable proceeding must be answered, and it will examine the evidence in order to answer the basic questions of fact and law and to prevent an evasion by the State courts of the Federal constitutional issue. And where the Supreme Court thus has jurisdiction, it may dispose of all the questions in the case. This Supreme Court has well said that a judicial review of the guaranty of due process imposes on it "an exercise of judgment upon the whole course of the proceedings to ascertain whether they offend those canons of decency and fairness which express the

notions of justice of the English-speaking peoples . . ." (Malinski vs. People of the State of New York, 324 U.S. 401, 89 L. ed. 1029.)

8. This Court has held that the judgment of the highest state court available to appellants, supporting the refusal of a lower court to issue a restraining order and to grant a permanent injunction and leaving nothing for the lower court to do but dismiss the petition, is a final order which the Supreme Court of the United States will review. Such is precisely the situation in this case.

9. This Court has well said that the equal protection of the laws guaranteed by the 14th Amendment "is something more than an abstract right, and is a command which the state must respect, the benefits of which every person may demand." (Hill vs. Texas, 316 U.S. 400, 62 S. Ct. 1159, 86 L. ed. 1589.) These appellants have clearly claimed those benefits from the first proceedings in the trial court, and the state has refused to respect them. This is decidedly not a theoretical question, for unless the unconstitutional acts of the appellee be restrained, the business of appellants will be irreparably ruined and their property rights therein forever lost by the attacks made upon them by the appellee under color of a purported and unconstitutional authority. Moreover, insurance companies, banks, and others with whom appellants as mortgage bankers are now dealing are in danger of prosecution by appellee for a violation of his regulations based on said unconstitutional authority here challenged on Federal grounds. (See Petition for Rehearing in District Court of Appeal, 8-9.) This Court held in Traux v. Corrigan (257 U.S. 312, 66 L. ed. 254) that an action by the state which strips the petitioner of any remedy against the invasion of his property rights is a violation of the 14th Amendment. Without the rehearing here prayed for, these appellants will be denied any such remedy, and the great guaranties of due process and equal protection of the laws embodied in the

14th Amendment will be reduced to mere grandiloquent generalities, perverted from a protection of their constitutional liberties to what Mr. Justice Brewer aptly called (Gulf, etc. R. Co. v. Ellis, 165 U.S. 150, 154) "a rope of sand".

So strong are the foregoing principles of law and so well settled by the decisions of this Court that we trust it will not be deemed presumptuous for us to state that we have sought in vain to divine the legal reasons which caused the dismissal of this appeal. We can only surmise that one or more of the Justices of this Court may have misunderstood the purport of the only opinion issued by either of the appellate courts of this state in connection with this appeal, namely, the order of the Presiding Justice of the District Court of Appeal, First Division, dated June 11, 1951, denying you appellants a temporary restraining order pending the hearing of their appeal for a permanent injunction, following the order of Judge Teresa Meikel of the lower court denying appellants both a temporary restraining order and an injunction. (See Jurisdictional Statement, 3). May we therefore again emphasize that this appeal is not based on the denial of the temporary restraining order, as pointed out in the Jurisdictional Statement, page 4. That denial was apparently based on the confusion that existed in the Court's mind between a mere error of administrative procedure which can be cured on review, and administrative action devoid of any lawful or constitutional authority, on which appellants predicated their complaint and appeal herein. The trial judge did not give appellants the opportunity to establish their right to permanent injunctive relief by issuing the order to show cause prayed for in the complaint; she rather denied appellants all injunctive relief, on the sole authority of the one case cited by opposing counsel, only as to the headnote favoring his plea. (Jurisdictional Statement, 2-3). And the District Court of Appeal, out of an obviously mistaken view as to appellants' right to injunctive relief from the unconstitutional acts of

appellee, dismissed the appeal instead of hearing it on the merits. It is profoundly hoped that this Honorable Court will not so lightly adjudge the claim to Federal right herein asserted.

WHEREFORE, your petitioner respectfully prays that the order of this Court of March 4, 1952, dismissing this appeal be set aside, and that a rehearing be granted on the merits, lest a miscarriage of justice result.

Dated: March 28, 1952.

ARTHUR L. JOHNSON,
Counsel for Appellants

CERTIFICATE OF COUNSEL UNDER RULE 33

I hereby certify that the Petition for Rehearing herewith filed is presented in good faith and not for delay. Rather it is submitted because of the earnest belief of counsel that an important Federal issue exists in this case, that that issue has been totally ignored by the state courts, and that unless the Supreme Court of the United States pass upon the Federal question herein raised, the appellants will be denied justice and due process of law.

ARTHUR L. JOHNSON,
Counsel for Appellant

MEMORANDUM OF LAW

1. **Allegations as to denial of a Federal right are assumed true when unanswered.**

Hawk vs. Olson, 66 S. Ct. 116, 326 U.S. 271, 90 L. ed. 61; rehearing denied, 66 S. Ct. 133.

White vs. Ragan, 65 S. Ct. 978, 324 U.S. 760, 89 L. ed. 1988.

Williams vs. Kaiser, 65 S. Ct. 363, 323 U.S. 471, 89 L. ed. 398.

Tomkins vs. State of New York, 65 S. Ct. 370, 323 U.S. 485, 89 L. ed. 407.

Kotch vs. River Pilot Commissioners, 67 S. Ct. 910, 330 U.S. 552, 91 L. ed. 1093; rehearing denied, 331 U.S. 864.

Truax vs. Corrigan, 257 U.S. 312, 323, 66 L. ed. 254.

II. **Where state and Federal issues are interwoven as to the constitutionality of a state statute, the Federal Supreme Court will "analyze the facts as averred and draw its own conclusions as to the ultimate facts."**

Northern Pacific R. Co. vs. North Dakota, 236 U.S. 585, 593, 59 L. ed. 735, 740, 33 S. Ct. 429, LRA 1917 F. 1148.

Home Telephone & Tel. Co. vs. Los Angeles, 227 U.S. 278, 53 L. ed. 510.

State Tax Commission of Utah vs. Van Cott, 59 S. Ct. 605, 306 U.S. 511, 83 L. ed. 950.

Truax vs. Corrigan *supra* at 324-325.

Kansas City Southern Railroad Co. vs. Albers Commission Company, 223 U.S. 573, 56 L. ed. 556, 32 S. Ct. 316.

C. B. & Q. R. Co. vs. Illinois, 200 U.S. 561, 580, 50 L. ed. 596, 604.

Fiske vs. Kansas, 274 U.S. 380, 71 L. ed. 1108.

Chesebro vs. Los Angeles County Fruit Control District, 306 U.S. 459, 83 L. ed. 921.

Abie State Bank vs. Bryan, 282 U.S. 765, 75 L. ed. 690.

Oyama vs. California, 68 S. Ct. 269, 332 U.S. 633, 92 L. ed. 249.

State Bank vs. Weaver, 282 U.S. 765, 75 L. ed. 690.

III. **The question of whether Federal rights are adequately considered in the state courts is itself a Federal question.**

Lovell vs. City of Griffin, 303 U.S. 404, 82 L. ed. 949.

Truax vs. Corrigan, 257 U.S. 312, 66 L. ed. 254.

Arowsmith vs. Harmoning, 118 U.S. 194, 30 L. ed. 243, 6 S. Ct. 1023.

McCullough vs. Virginia, 172 U.S. 102, 116, 43 L. ed. 382, 387, 19 S. Ct. 134.

IV. **State statutes discriminating against personal and property rights without reasonable basis for classification are void as repugnant to the 14th Amendment.**

Liggett vs. Baldridge, 278 U.S. 105, 110, 111-113, 73 L. ed. 204.

Hartford Steam Boiler Inspection and Insurance Co. vs. Harrison, 301 U.S. 451, 81 L. ed. 1223, 1227.

Hayes vs. Missouri, 120 U.S. 68, 71, 7 S. Ct. 350, 30 L. ed. 578, 580.

Gulf, etc. R. Co. vs. Ellis, 163 U.S. 150, 155, 17 S. Ct. 255.

Connolly vs. Union Sewer Pipe Co., 184 U.S. 563, 46 L. ed. 679.

People vs. Ringe, 197 New York 143, 190 N.E. 451, 27 LRA N.S. 528.

Soon Hing vs. Crowley, 113 U.S. 705, 28 L. ed. 1146, 1147.

Hurtado vs. California, 110 U.S. 516, 28 L. ed. 332.

Barbier vs. Connolly, 113 U.S. 22, 27, 31, 28 L. ed. 923, 924, 5 S. Ct. 352.

Coppage vs. Kansas, 59 L. ed. 441; Cutting vs. Godard, 183 U.S. 79, 109, 46 L. ed. 92, 108.

Truax vs. Corrigan, *supra* at 332-333.

Smith vs. Texas, 233 U.S. 79, 34 S. Ct. 681, 58 L. ed. 1129, LRA 1915 D, 677.

Yick Wo vs. Hopkins, 118 U.S. 356, 30 L. ed. 220, 225-227.

Douglas vs. Noble, 261 U.S. 165, 67 L. ed. 590, 592.

Allgeyer vs. Louisiana, 165 U.S. 578, 17 S. Ct. 427, 41 L. ed. 832.

Williams vs. Fears, 179 U.S. 270, 21 S. Ct. 128, 45 L. ed. 186.

Powell vs. Pennsylvania, 127 U.S. 68, 8 S. Ct. 992, 32 L. ed. 253.

Terrace vs. Thompson, 263 U.S. 197, 44 S. Ct. 15, 68 L. ed. 255, 44 S. Ct. 15.

Adair vs. United States, 208 U.S. 173, 174, 52 L. ed. 443, 28 S. Ct. 277, 13 Ann. Cas. 764.

Butchers Union vs. Crescent City Company, 111 U.S. 746, 761, 28 L. ed. 585, 588-9, 4 S. Ct. 652.

A. T. & Santa Fe R. Co. vs. Vosberg, 238 U.S. 57, 59, 59 L. ed. 1199, 1200, LRA 1915E, 953.

A. T. & Santa Fe R. Co. vs. Matthews, 174 U.S. 96, 43 L. ed. 909.

Exparte Young, 209 U.S. 123, 52 L. ed. 714, 13 LRA (N.S.) 932, 28 S. Ct. 441.

V. Where state courts refuse to pass on a question of Federal right, the Supreme Court will take jurisdiction and determine the issue.

Brooklyn Savings Bank vs. O'Neil, 324 U.S. 697, 89 L. ed. 1296; rehearing denied, 89 L. ed. 2005.

C.B.&Q.R. Co. vs. Illinois, 200 U.S. 561, 50 L. ed. 596.

Williams vs. Kaiser, 65 S. Ct. 363, 323 U.S. 471, 89 L. ed. 398.

Hawk vs. Olson, 66 S. Ct. 116, 326 U.S. 271, 90 L. ed. 61.

Ruby vs. Colehour, 146 U.S. 153, 36 L. ed. 922, 13 S. Ct. 47.

Love vs. Griffith, 266 U.S. 32, 69 L. ed. 157.

Green Bay & M. Canal Co. vs. Patten Paper Company, 172 U.S. 58, 43 L. ed. 364, 19 S. Ct. 97.

Houston & T.C.R. Co. vs. Texas, 177 U.S. 66, 44 L. ed. 673, 20 S. Ct. 545.

Merchants National Bank vs. Richmond, 41 S. Ct. 619, 256 U.S. 635, 65 L. ed. 1135.

Titus vs. Wallick, 59 S. Ct. 557, 306 U.S. 282, 83 L. ed. 653.

Detroit, Ft. W. & B. R. Co. vs. Osborn, 189 U.S. 383, 47 L. ed. 860, 23 S. Ct. 540.

Williams vs. Bruffy, 102 U.S. 248, 26 L. ed. 135.
See also note 63 LRA 50 and cases cited, and annotations 89 L. ed. 1192.

William vs. North Carolina, 325 U.S. 226, 89 L. ed. 1577, 2006, 157 ALR 1366.

Where the constitutional rights claimed have not been denied expressly but have been denied in substance and effect, the Supreme Court will review both the law and the facts.

Oyama vs. State of California, 68 S. Ct. 269, 332 U.S. 633, 92 L. ed. 249.

Intl. Steel & Iron Co. vs. National Surety Co., 56 S. Ct. 619, 297 U.S. 657, 80 L. ed. 961.

VI. An appeal will not be dismissed if a substantial Federal question has been raised, regardless of the action of the state court.

Blythe vs. Hinckley, 180 U.S. 333, 45 L. ed. 557.

Carlson vs. Washington, 34 S. Ct. 717, 234 U.S. 103, 58 L. ed. 1237.

Senn vs. Tile Layers Protective Union, 301 U.S. 468, 81 L. ed. 1229.

United States vs. Pink, 62 S. Ct. 552, 315 U.S. 203, 86 L. ed. 796.

Carter vs. Texas, 177 U.S. 442, 44 L. ed. 839, 20 S. Ct. 687.

Erie R. Co. vs. Purdy, 185 U.S. 146, 46 L. ed. 847, 22 S. Ct. 605.

Raich vs. Truax, 219 Fed. 273; affirmed 239 U.S. 33, 60 L. ed. 131.

Eng. vs. Trinidad, 271 U.S. 501, 70, L. ed. 1059.

Ward vs. Krinksy, 259 U.S. 503, 66 L. ed. 1033, 28 ALR 1207.

Pierce vs. U.S., 252 U.S. 239, 64 L. ed. 542.

VII. On an appeal in equity matters of fact as well as of law will be reviewed.

Southern Pacific Co. vs. Arizona, 325 U.S. 761, 89 L. ed. 1915.

Great Northern R. vs. Washington, 300 U.S. 154, 81 L. ed. 573; rehearing denied, 300 U.S. 686.

Norris vs. Alabama, 55 S. Ct. 529, 294 U.S. 587, 79 L. ed. 1074.

Lawrence vs. State Tax Commissioner, 52 S. Ct. 556, 286 U.S. 276, 76 L. ed. 1102.

Radio Corp. of America vs. Radio Engineering Lab., 293 U.S. 1, 79 L. ed. 163; rehearing denied, 293 U.S. 522, 79 L. ed. 634.

Virginian R. Co. vs. United States, 273 U.S. 658, 71 L. ed. 463.

Cedar Rapids Gas & Light Co. vs. Cedar Rapids, 32 S.

Cedar Rapids Gas Light Co. vs. Cedar Rapids, 32 S. Ct. 389, 223 U.S. 655, 56 L. ed. 59.

Malinski vs. New York, 324 U.S. 401, 89 L. ed. 1029.

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No. 555. MORTGAGE FINANCE CORP. ET AL. *v.* WATSON, REAL ESTATE COMMISSIONER. Appeal from the District Court of Appeal of California, First Appellate District. *Per Curiam:* The appeal is dismissed for the want of a substantial federal question. *Arthur L. Johnson* for appellants.